

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today  
(1) was not written for publication in a law journal and  
(2) is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte AIKO HANYU, SCOTT D. COOPER  
and MARK MILLER

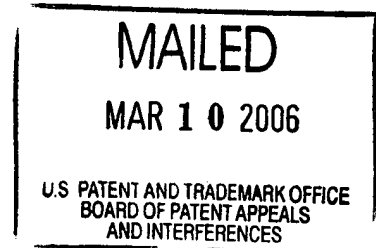
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Appeal No. 2006-0612  
Application 09/810,956 <sup>1</sup>

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ON BRIEF

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Before PAK, WALTZ, and TIMM, Administrative Patent Judges.

PAK, Administrative Patent Judge.

REMAND TO THE EXAMINER

This case is not ripe for meaningful review and is,  
therefore, remanded to the examiner for appropriate action  
consistent with the views expressed below.

The examiner has rejected, inter alia, claims 1, 6 through  
11, 14 through 19, 24, 25, 28 through 30, 33, 35 through 38, 41

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<sup>1</sup> Application for patent filed March 16, 2001.

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and 42 under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) as anticipated by and unpatentable over the disclosure of JP 11-06083 naming "Idemitsu Petrochem Co. LTD" as Applicant. To substantiate these rejections, the examiner refers to a translation generated by computer.

In order to properly review the above-mentioned rejections, it is of the utmost importance to have an English translation that accurately reflects the original Japanese patent document. Without such a translation, we cannot determine whether the underlying evidence supports the rejections of record. However, the computer generated translation of record falls short for at least two reasons. First, it is not clear whether the temperatures described at page 6 of the translation are seal initiation temperatures or DSC melting point temperatures. Without the proper translation of these temperatures, we cannot determine the applicability of the In re Best and/or In re Spada theories relied upon by the examiner at pages 3 and 4 of the Answer. Second, it is not clear whether the computer-generated translation of record accurately reflects the disclosure of the original Japanese document relied upon by the examiner. Indeed, the Japanese Patent Office, which appears to be the source of this translation, stated that it "is not responsible

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for any damages caused by the use of this translation." See page 1 of the translation.

Thus, upon return of this application, the examiner is to obtain a copy of the accurate English translation of the above-mentioned Japanese document and review the content thereof to determine whether the above-mentioned rejections can still be maintained. Pursuant to 37 CFR § 41.50 (2004), the examiner is to submit a Supplemental Answer containing factual findings based on this accurate English translation, including the specific pages and lines relied upon to support these findings, if the above-mentioned rejections are to be maintained. The appellants may exercise one of the two options listed in Rule 41.50 within the mandatory time period of two months from the date of the Supplemental Answer.

This remand to the examiner pursuant to 37 CFR § 41.50(a)(1) (effective September 13, 2004, 69 Fed. Reg. 49960 (August 12, 2004), 1286 Off. Gaz. Pat. Office 21 (September 7, 2004)) is made for further consideration of a rejection. Accordingly, 37 CFR § 41.50(a)(2) applies if a supplemental examiner's answer is written in response to this remand by the Board.

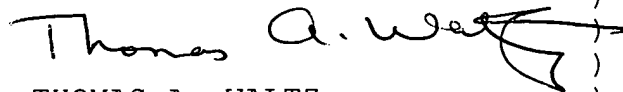
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This application, by virtue of its "special" status, requires an immediate action, *MPEP* § 708.01(d). It is important that the Board be informed promptly of any action affecting the appeal in this case.

REMANDED



CHUNG K. PAK )  
Administrative Patent Judge )



THOMAS A. WALTZ )  
Administrative Patent Judge )



CATHERINE TIMM )  
Administrative Patent Judge )

BOARD OF PATENT  
APPEALS AND  
INTERFERENCES

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